COMMISSION DELEGATED REGULATION (EU) No .../..

of 23.10.2017

establishing a de minimis exemption to the landing obligation for certain small pelagic fisheries in the Mediterranean Sea
EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A central theme of the Common Fisheries Policy (CFP) is the progressive elimination of discards in all EU fisheries. Designed to make better use of the available resources, it responds to public pressure to end the practice of throwing marketable fish back into the sea. The CFP also foresees rules to be adapted to the specific characteristics of each fishery and sea basin.

The landing obligation in the Mediterranean Sea applies as of 1st January 2015. So far no multiannual plans under the framework of the CFP have been adopted. Moreover, Commission Delegated regulation (EU) No 1392/20141 of 20 October 2014 establishing a discard plan for certain small pelagic fisheries in the Mediterranean Sea expired as of 31 December 2017. The aforementioned discard plan applies to Mediterranean Sea in the sense of Article 2 (a) of the said Delegated regulation. The maximum duration of the discard plan amounts to three years, which may not be prolonged pursuant to the strict limitation of Article 15(6) of Regulation (EU) No 1380/2013 (the Basic Regulation) on the CFP.2

This being so, and taking into account that where no measures have been adopted for the purpose of specifying the de minimis exemption either in a multiannual plan or in a specific discard plan, Article 15 (7) of Regulation (EU) No 1380/2013 (the Basic Regulation) on the CFP foresees the possibility to adopt de minimis exemptions to the landing obligation in the fisheries of the Mediterranean Sea, the Commission is making the current Proposal.

This proposal specifies the details for the implementation of the de minimis exemption in the waters circumscribed in Article 2 of the current proposal, for the list of species and fisheries subject to landing obligation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Elements related to the implementation of the landing obligation and the specific de minimis exemption in the Mediterranean Sea have been discussed and reviewed by the Scientific Technical and Economic Committee for Fisheries (STECF).

3. LEGAL ELEMENTS OF THE DELEGATED ACT

- Summary of the proposed action

The main legal action is to adopt measures that would facilitate the implementation of the landing obligation.

The regulation specifies the species and fisheries to which specific measures would apply and it fixes the level of de minimis exemptions applicable to avoid disproportionate costs of handling unwanted catches.

The de minimis exemption in question shall apply to catches of all the species subject to minimum sizes in accordance with Annex III of Regulation (EC) No 1967/2006 caught in small pelagic fisheries using pelagic trawl and/or purse seines from 1 January 2018 (i.e. fisheries for anchovy, sardine, mackerel and horse mackerel).3

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• Legal basis
  Article 15(7) of Regulation (EU) No 1380/2013.
• Subsidiarity principle
  The proposal falls under the exclusive competence of the European Union.
• Proportionality principle
  The proposal is within the scope of the delegated powers provided to the Commission by Article 15(7) of Regulation (EU) No 1380/2013.
• Choice of instrument
  The proposed instrument is a Commission Delegated Regulation.
  Other means would not be adequate for the following reason: the Commission has been granted powers to adopt a *de minimis* exemption specifically by means of a delegated act.
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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,


Whereas:

(1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits or minimum sizes.4

(2) According to Article 15(1)(a) of Regulation (EU) No 1380/2013, the landing obligation applies in small pelagic fisheries from 1 January 2015. For the fishery in question, Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt provisions for the implementation of the landing obligation ('discard plans') by means of a delegated act on a temporary basis and for a period of no more than three years.

(3) Commission Delegated Regulation (EU) No 1392/20145 established a discard plan for certain small pelagic fisheries in the Mediterranean Sea. That discard plan applies to small pelagic fisheries using pelagic mid-water trawl and/or purse seines (fisheries for anchovy, sardine, mackerel and horse mackerel). In order to avoid disproportionate costs of handling unwanted catches, it allows the discarding of a small percentage of catches of species subject to minimum sizes as referred to in Annex III to Regulation (EC) No 1967/20066 ('de minimis exemption').

(4) The discard plan established by Delegated Regulation (EU) No 1392/2014 will expire on 31 December 2017. Moreover, no measures have been adopted for the purpose of specifying the de minimis exemption in a multiannual plan beyond 31 December 2017. In order to avoid disproportionate costs of handling unwanted catches, it is therefore appropriate to establish a de minimis exemption in accordance with Article 15(7) of

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Regulation (EU) No 1380/2013. The de minimis exemption should apply in the GFCM (General Fisheries for the Commission of the Mediterranean) Areas covered by the current discard plan, which are Areas 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2, and 12 (Western Mediterranean Sea); 17 and 18 (Adriatic Sea); and 15, 16, 19, 20, 22, 23 and 25 (South Eastern Mediterranean Sea).

(5) The proposed de minimis exemption was reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) which did not provided any comments thereon apart from the fact that in cases where an increase to the de minimis percentage was requested from 3% to 5% this was considered not justifiable. In light of the above, it is appropriate to establish the de minimis exemption in accordance with the percentage level established by Delegated Regulation (EU) No 1392/2014 and at levels not exceeding those allowed under Article 15(7) of Regulation (EU) No 1380/2013.

(6) Since the discard plan established by Delegated Regulation (EU) No 1392/2014 will expire on 31 December 2017, this Regulation should apply as from 1 January 2018. Similarly as the former discard plan established by Delegated Regulation (EU) No 1392/2014, this de minimis Regulation should, as requested by regional groups of Member States, apply for a three years period, i.e. until 31 December 2020.

(7)

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and Scope

This Regulation establishes a de minimis exemption from the landing obligation for species subject to minimum sizes caught in small pelagic fisheries using pelagic mid-water trawl and/or purse seins in the Mediterranean Sea (fisheries for anchovy, sardine, mackerel and horse mackerel).

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘species subject to a minimum size’ means any species listed in Annex III to Regulation (EC) No 1967/2006;

(b) ‘Mediterranean Sea’ means maritime waters of the Mediterranean to the east of line 5°36′ West;


(d) ‘Western Mediterranean Sea’ means GFCM Geographical Sub-Areas 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2 and 12;

(e) ‘South Eastern Mediterranean Sea’ means GFCM Geographical Sub-Areas 15, 16, 19, 20, 22, 23 and 25;

(f) ‘Adriatic Sea’ means GFCM Geographical Sub-Areas 17 and 18.

(g) ‘Southern Adriatic and Ionian Sea’ means GFCM Geographical Sub-Areas 18, 19 and 20;

(h) ‘Malta Island and South of Sicily’ means GFCM Geographical Sub-Areas 15 and 16;

(i) ‘Aegean Sea and Crete Island’ means GFCM Geographical Sub-Areas 22 and 23.

**Article 3**

*De minimis exemption*

1. In the small pelagic mid-water trawl and purse seines fisheries set out in Annexes I, II and III, up to 5% of the total annual catches of any species subject to a minimum size may be discarded.

2. In the small pelagic purse seines fisheries set out in Annexes IV, V and VI, up to 3% of the total annual catches of any species subject to a minimum size may be discarded.

3. Paragraphs 1 and 2 of this Article shall apply by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013.

**Article 4**

*Entry into force*

This Regulation shall enter into force on 1 January 2018.

It shall apply until 31 December 2020.’

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23.10.2017

*For the Commission*

*The President*

*Jean-Claude JUNCKER*